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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Effingham and Valley Falls, Kansas and
Humboldt and Pawnee City, Nebraska)

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Federal Communications Commission,
Office of Secretary

MB Docket No. 05-310
RM - 11292
RM - 11300

To: Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

REPLY COMMENTS

Cumulus Licensing LLC ("Cumulus"), permittee of Channel 244A, Humboldt, Nebraska, by its counsel, hereby submits its reply comments to the Public Notice (Report No. 2760, released February 16, 2006 in the above captioned proceeding. The Public Notice provides a 15 day reply period to respond to the Counterproposal filed by Viking Enterprises, LLC ("Viking") on January 3, 2006. Previously, Cumulus filed Reply Comments contending that the Viking counterproposal was defective. In response Viking submitted an Addendum to Counterproposal. As discussed herein, Viking's attempt to cure its Counterproposal should not be permitted. The Counterproposal should be dismissed. In support hereof, Cumulus states as follows:

1. As Cumulus stated in its Reply Comments, Viking failed to include channel studies to demonstrate that Channel 245C2 can be allotted to Holton, Kansas, and Channel 272A can be substituted for Channel 244A at Humboldt, Nebraska. The Commission has been less tolerant in overlooking deficiencies in Counterproposals where there would be an adverse impact on other parties who have filed acceptable proposals. Cumulus cited several cases where counterproposals and petitions were returned for failure to include channel studies. *See Springdale, Arkansas, et*

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al., 4 FCC Rcd 674 (1989); *Letter from John A. Karousos to Dan J. Alpert, counsel to KERM, Inc.*, (May 6, 2005) (“the *Alpert Letter*”); *Letter from John A. Karousos to James L. Oyster, counsel to Finger Lakes Radio Group*, (February 10, 2005) (the “*Oyster Letter*”).

2. Viking admits its failure to submit the channel studies but excuses this omission as minor and inadvertent. Viking attempts to distinguish the three cited cases suggesting that there were other deficiencies involved in those cases that caused the Commission to dismiss those proposals. However a fair reading of those decisions reveals that the Commission would have returned the petitions and dismissed the counterproposal for failure to submit the channel studies alone. Viking is trying to establish new policy in this case. If the Commission accepts Viking’s argument then it will no longer be necessary to submit channel studies in petitions or counterproposals as long as there are no short spacings or city grade coverage defects. There is no possible way to distinguish Viking’s failure from any other situation where a proponent fails to demonstrate compliance with 73.207 and 73.315 of the Commission’s Rules. Viking cites no cases where the Commission has accepted a counterproposal which is missing a channel study to support compliance with the relevant technical rules. Indeed, the submission of channel studies is so basic that it has always been required since the Commission started accepting petitions following the creation of the FM Table of Allotments in the early 1960s.

3. Viking would have the Commission establish new policy in this case. The Commission will need to be prepared for the precedent that will be created as a result, *i.e.*, that petitioners and counterproponents will no longer be required to submit channel studies to demonstrate compliance with these bedrock rule provisions. If Viking’s proposal is accepted for consideration, there will be other instances where parties fail to supply the channel study and the situation may not be as clear as it is alleged to be here. At a time when the Commission’s limited

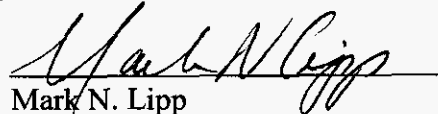
resources are already taxed to process these proposals within a reasonable period of time, the Commission should not be eliminating a requirement which makes their job easier and clears up confusion both from the standpoint of other parties trying to evaluate the proposal as well as the analysis by Commission staff.

WHEREFORE, for the foregoing reasons, Cumulus respectfully requests that the Commission dismiss Viking's Counterproposal.

Respectfully submitted,

CUMULUS LICENSING LLC

By:



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March 3, 2006

CERTIFICATE OF SERVICE

I, Mark Lipp, in the law firm of Vinson & Elkins, L.L.P., do hereby certify that I have on this 3rd day of March, 2006, caused to be mailed, a copy of the foregoing "**Reply Comments**" to the following:

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